

**REMARKS**

Entry of the above-noted amendments, reconsideration of the Application, and allowance of all claims pending are respectfully requested. By this amendment, claims 1-4, 6, 10, 18, 21, 23, and 25 are amended. These amendments to the claims constitute a bona fide attempt by Applicant to advance prosecution of the Application and obtain allowance of the pending claims, and are in no way meant to acquiesce to the substance of the rejections. Support for the amendments can be found throughout the Application (e.g., ¶ 19, 35, and 41), drawings, and claims (e.g., claims 2-4 and 10) and thus, no new matter has been added. Claims 1-25 are pending.

**Interview on November 5, 2007:**

The amendments herein follow an Interview Summary being mailed regarding a telephone conference between the Examiner, the Examiner's Supervisor, and Applicant's Attorney on November 5, 2007 in which the claims, the specification, and the art of the record were discussed, including Applicant's claims 1, 10, 21, and 25, Applicant's specification ¶ 35 and 41, and *Mukai et al.*, U.S. Patent No. 5,557,358. Positive discussion and consideration occurred during the telephone conference in connection with the claims presented herewith, including Applicant's claims 1, 10, 21, and 25. Agreement was reached that independent claim 1 presented herewith is allowable over *Mukai et al.*, U.S. Patent No. 5,557,358; further review has occurred for claim 1 presented herewith in connection with *Windle*, U.S. Patent No. 6,606,117. The time and courtesy afforded Applicant's Attorney and positive discussion and agreements reached are gratefully acknowledged by Applicant.

**Claim Rejections - 35 U.S.C. § 101:**

Claim 25 is rejected under 35 U.S.C. §101 on the basis that the claimed invention is directed to non-statutory subject matter. This rejection is respectfully traversed.

The Office Action states:

Regarding claim 25, although the Examiner acknowledges the amendments made to claim 25 in order to overcome the previous rejections under 35 § USC 101., claim 25 still present[s] issues related to non-statutory subject matter. Claim 25[] recites.... The claim as presented does not present or recite[] the interrelationship between the computer readable tangible medium having the program to display image composition templates and the computer or camera. The claim as written merely recites that the computer readable tangible medium comprises said program and that [] said program is executed by an image capturing apparatus [that] performs a particular method of steps, however, [this]

does not establish a connection between the computer readable tangible medium and said image capturing device. When nonfunctional descriptive material [is] recorded on some computer-readable medium or in a computer, it is not statutory since no requisite functionality is present to satisfy the practical application requirement. Merely claiming nonfunctional descriptive material in a computer readable medium or computer does not make it statutory. *Office Action*, 08/23/07, pg. 7-8 (*emphasis in original omitted*).

Without acquiescing in the rejection, Applicant respectfully submits the rejection is moot in view of the amendment herein to claim 25. For example, claim 25 presented herewith recites, *inter alia*, “analyzing at least one characteristic of a preview image by the image capturing device”; “determining a nature of the preview image by the image capturing device”; and “selecting an image composition template by the image capturing device”.

Withdrawal of the § 101 rejections is therefore respectfully requested.

Claim Rejections - 35 U.S.C. §§ 102 and 103:

Claims 1, 2-4, 8-14, 17-19, and 21-24 are rejected under 35 U.S.C. § 102(b) as being anticipated by *Mukai et al.*, U.S. Patent No. 5,557,358. Claims 5, 7, and 20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Mukai et al.*, in view of *Soga et al.*, U.S. Patent No. 6,806,906. Claims 6, 15-16, and 25 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Mukai et al.* and *Windle*, U.S. Patent No. 6,606,117. Without acquiescing in the rejections, Applicant respectfully submits the rejections are moot in view of the claim amendments presented herewith.

It is well-settled that there is no anticipation unless (1) all the same elements are (2) found in exactly the same situation and (3) are united in the same way to (4) perform the identical function. Since the Examiner’s citations to each of the applied references are missing at least one element of each of Applicant’s independent claims, Applicant respectfully submits that the claimed invention is not anticipated by the Examiner’s citations to the applied references.

While Applicant does not acquiesce in the modification or combination of the Examiner’s citations to the applied references, Applicant respectfully submits that the Examiner’s citations to the applied references even so modified or combined, do not teach or suggest one or more elements of the claimed invention. The missing elements are neither well-known in the art nor mere predictable uses or variations of the cited prior art.

Applicant respectfully submits that the Examiner’s citations to the applied references do not teach or suggest one or more elements of the claimed invention. A careful reading of the

Examiner's citations to the applied references fails to set forth a sustainable basis that the references teach or suggest, for example, a plurality of image composition templates, each of the image composition templates associated with at least one of a plurality of preview image natures, at least one image composition template corresponding to a predefined subject matter; a photosensor configured to sense an image; a display configured to display a preview image corresponding to the sensed image; and a processor configured to perform an analysis of at least one characteristic of the preview image; wherein the processor is configured to determine a nature of the preview image based on an analysis of the at least one characteristic of the preview image through employment of a scene analysis algorithm to identify coarse attributes of the preview image; wherein the processor is configured to employ the scene analysis algorithm to select the image composition template based upon the nature of the preview image in which the processor divides the preview image into a coarse grid and compares the coarse grid against a number of pre-stored grid patterns to determine a best match with one of the pre-stored grid patterns associated with a corresponding one of the image composition templates, as recited in Applicant's independent claim 1.

For at least the reasons presented above with reference to claim 1, claims 1, 10, 21, and 25 are believed neither anticipated nor obvious over the art of record. The corresponding dependent claims are believed allowable for at least the same reasons as independent claims 1, 10, 21, and 25, as well as for their own additional characterizations.

Withdrawal of the §§ 102 and 103 rejections is therefore respectfully requested.

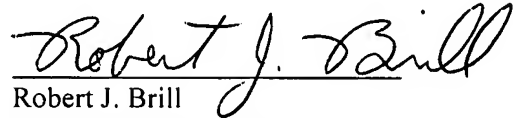
In light of at least the foregoing, Applicant respectfully believes that the present application is in condition for allowance. As a result, Applicant respectfully requests timely issuance of a Notice of Allowance for claims 1-25.

At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 08-2025 pursuant to 37 C.F.R. 1.25. Additionally charge any fees to Deposit Account 08-2025 under 37 C.F.R. §§ 1.16 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees.

Please consider this a general authorization to charge any fee that is due in this case, if not otherwise timely paid, to Deposit Account No. 08-2025. While Applicant believes that no additional fees are necessary as a result of the foregoing amendments, should any fees be due, Applicant hereby authorizes charging of Deposit Account No. 08-2025.

Applicant appreciates the Examiner's consideration of these Amendments and Remarks and cordially invites the Examiner to call the undersigned, should the Examiner consider any matters unresolved.

Respectfully submitted,



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